

ARTICLE 15

STORMWATER MANAGEMENT

(ART. 10, ATM – 04/25/07) (ART. 11, ATM – 4/26/21)

Section 1. Purpose

The purpose of this bylaw is to protect, maintain, and enhance the public health, safety, environment, and general welfare by establishing minimum requirements and procedures to control the adverse effects of soil erosion and sedimentation, construction and post-development stormwater runoff, decreased groundwater recharge, climate change impacts, and nonpoint source pollution associated with new development, redevelopment, and other land alterations. Stormwater runoff can be a major cause of:

- (1) Impairment of water quality and flow in lakes, ponds, streams, rivers, coastal waters, wetlands, groundwater, and drinking water supplies;
- (2) Contamination of drinking water supplies;
- (3) Contamination of downstream coastal areas;
- (4) Alteration or destruction of aquatic and wildlife habitat;
- (5) Overloading or clogging of municipal stormwater management systems; and
- (6) Flooding.

The objectives of this bylaw are to:

- (1) Protect wetland and water resources;
- (2) Mitigate climate change impacts;
- (3) Comply with state and federal statutes and regulations relating to stormwater discharges including total maximum daily load requirements;
- (4) Prevent and reduce pollutants from entering Arlington's municipal separate storm sewer system (MS4);
- (5) Prohibit illicit connections and unauthorized discharges to the MS4 and require their removal;
- (6) Establish minimum construction and post construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality and the control of sedimentation and erosion on disturbed sites;
- (7) Establish provisions for the long-term responsibility for, and maintenance of, structural stormwater control facilities and nonstructural stormwater best management practices to ensure that they continue to function as designed, and pose no threat to public safety; and

(8) Establish Arlington's legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

Section 2. Definitions

A. The following terms, when used whether or not capitalized in this Bylaw, shall have the meanings set forth below, unless the context otherwise requires. Additional definitions may be set forth in the Rules and Regulations promulgated by the Department of Public Works under Section 6.C of this bylaw.

"Building footprint" – The outline of the total area covered by a building's perimeter at the ground level.

"Development" – The modification of land to accommodate a new use or expansion of use, usually involving construction.

"Impervious surface" – A hard-surfaced, human-made area that does not readily absorb or retain water, preventing the infiltration of storm water runoff; including but not limited to building roofs, parking and driveway areas, sidewalks, paved recreation areas, structural additions, accessory structures, roads, pools, and play areas.

"Land Alteration" – Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material; results in an increased amount of runoff or pollutants; measurably changes the ability of a ground surface to absorb waters; involves clearing and grading; or results in an alteration of drainage characteristics.

"Predevelopment" – The status of a property at the time prior to request for a permit for new construction or increase to the impervious surface area of a lot.

"Runoff" – Rainfall, snowmelt, or irrigation water flowing over the ground surface or directed through a pipe or culvert.

"Runoff Rate" – The speed and volume of stormwater which flows over the surface of the land.

"Stormwater" – Runoff from precipitation or snow melt and surface water runoff and drainage.

Section 3. Authority

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

Section 4. Applicability

A. This bylaw shall be applicable to all new development, development, redevelopment, or land alteration activities resulting in either an increase in impervious surface of 350 square feet or more, or land alteration of 1 acre or more, including such activities that may also require a permit issued by the Redevelopment Board, Conservation Commission, Zoning Board of Appeals, and/or the Inspectional Services Department. A development shall not be segmented or phased in a manner to avoid compliance with this bylaw. This bylaw shall also apply to land alterations or disturbances that are less than one acre but are part of a larger plan of development disturbing one acre or more.

B. Project Categories. The Permitting Authority may by regulation establish categories of projects ranging from “minor” to “major” based on project size, scope, nature, or location. Project Application requirements and submittals, fees, and criteria for permit issuance shall be scaled appropriately based on project category.

Section 5. Procedure

Permit procedures and requirements shall be defined in the Rules and Regulations promulgated pursuant to Section 6.C. of this bylaw.

Section 6. Administration

- A. The Town Engineer or its Designee shall administer this bylaw.
- B. The Engineering Division may designate additional authorized agents (Designees) of the Conservation Commission, Redevelopment Board, Zoning Board of Appeals, or Building Inspector to issue Stormwater Permits concurrent with other permitting processes for projects when the land alteration or change in impervious cover is wholly under their jurisdiction.
- C. The Engineering Division, subject to approval by the Director of Public Works and the Town Manager, shall adopt, and may periodically amend, Stormwater Management Rules and Regulations including terms, conditions, definitions, enforcement, fees, delegation of authority, procedures and administration of this Bylaw. A public hearing must be held at least 2 weeks prior to the adoption or amendment of such Rules and Regulations, and a draft of the proposed Rules and Regulations must be made publicly available at least 2 weeks prior to the public hearing. Failure of the Engineering Division to issue such Rules and Regulations or legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this Bylaw.
- D. Stormwater Management Standards. For execution of the provisions of this Bylaw, the Permitting Authority shall define stormwater management standards within the Rules and Regulations. These standards shall incorporate into the Rules and Regulations the minimum standards of the EPA National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4 Permit) and the specifications and standards of latest editions of the Massachusetts Stormwater Management Standards and Technical Handbooks, or approved local equivalents. The stormwater management standards may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience.
- E. The Department of Public Works or its Designee has the authority to resolve illicit connections by the means necessary. This authority may be set forth by this Bylaw and is stated in the Rules and Regulations as stated in the Rules and Regulations Relating to Use of Public and Private Sewers.

Section 7. Enforcement

The Engineering Division or its Designee shall enforce this Bylaw, Regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

A. Civil relief. If a person violates the provisions of this Bylaw, or any associated Regulations, permit, notice, or order issued thereunder, the Engineering Division or its Designee may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

B. Orders. If the Engineering Division or its Designee determines that a person's failure to follow the requirements of this Bylaw, any regulatory provision issued hereunder, or any authorization issued pursuant to this Bylaw or Regulations is creating an adverse impact to a water resource, then the Engineering Division or its Designee may issue a written order to the person to remediate the adverse impact, which may include requirements to:

- (1) Cease and desist from land-disturbing activity until there is compliance with the Bylaw or provisions of an approved Stormwater Management Permit;
- (2) Maintain, install, or perform additional erosion and sediment control measures;
- (3) Perform monitoring, analyses, and reporting;
- (4) Remediate erosion and sedimentation resulting directly or indirectly from land-disturbing activity;
- (5) Comply with requirements in the Stormwater Management Permit for operation and maintenance of stormwater management systems;
- (6) Remediate adverse impacts resulting directly or indirectly from malfunction of the stormwater management systems; and/or
- (7) Eliminate discharges, directly or indirectly, into a watercourse or into the waters of the Commonwealth.

C. If the Engineering Division or its Designee determines that abatement or remediation of pollutants is required, the order shall set forth a deadline for completion of the abatement or remediation. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and expenses thereof shall be charged to the violator or property owner. Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Engineering Division or its Designee within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Engineering Division or its Designee affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the cost shall become a special assessment against the property owner of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. c.59, § 57 after the 30th day at which the costs first become due.

Section 8. Fee Schedule

A. Permit fees are payable at the time of Application and are nonrefundable.

B. Permit fees shall be calculated by the Engineering Division and shall be approved by the Director of Public Works and Town Manager. Fees shall be outlined within the Rules and Regulations.

C. Town, County, State, and Federal projects are exempt from fees.

D. Consultant Fee. Upon receipt of a Stormwater Permit Application the Engineering Division is authorized to require an Applicant to pay a fee for the reasonable costs and expenses borne by the Engineering Division for specific expert engineering and other consultant services deemed necessary by the Engineering Division to come to a final decision on the Application. The fee is called the consultant fee. The consultant shall be chosen by, and report only to, the Engineering Division. The exercise of discretion by the Engineering Division in making its determination to require payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision. The Engineering Division shall return any unused portion of the consultant fee to the Applicant. Any Applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provision of the Massachusetts General Laws.

Section 9. Severability

If any provision, paragraph, sentence, or clause of this bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.